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REMARKS

Attached hereto on a separate sheet entitled "Version with markings to show changes made." is a version of the above amendments with the changes marked.

Claim disposition

Claims 14, and 16-20 are cancelled without disclaimer or prejudice, as explained below.

New claims 21-27 are added.

Claims 21-27 are now pending in the application.

Claims 14, and 16-20 are cancelled as set forth above, in order to facilitate allowance. Applicant hereby reserves the right to file Continuation applications or take any other such appropriate measure to prosecute the invention of the cancelled claims.

The rejection under 35 U.S.C. § 112, first paragraph, should be withdrawn

Claims 14 and 16-19 were rejected under 35 U.S.C. § 112, first paragraph, for nonenablement. This rejection is obviated in light of cancellation of said claims, as stated above.

The rejection under 35 U.S.C. § 102 should be withdrawn

Claims 14 and 16-20 were rejected under 35 U.S.C. § 102 (b) as being anticipated by Harpold et al., U.S. Patent NO. 5,429,921. In support, the Office Action indicates that Harpold et al. disclose polypeptides comprising SEQ ID NO:25 amino acid sequences which are 100% identical to claimed SEQ ID NO: 14-17.

As indicated in Applicants' last response, Harpold et al. set forth SEQ ID NO:25 therein, which is not a soluble secreted polypeptide; as evidenced by Harpold et al.'s use of electrophysiological methods in assessing channel function subsequent to expression of this polypeptide. See for example, column 43, line 66, to column 48 of Harpold et al. See also column 10, second full paragraph of Harpold et al. However, further in support of the present rejection, the Office Action indicates that Harpold et al. disclose TrpE fusion protein fragments which are designed for secretion and purification of the protein.

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As indicated above, claims 14 and 16-20 are cancelled.

New Claims 21-27 each contain a limitation drawn to limit the secreted soluble $\alpha_2\delta$ -1 polypeptide sequence therein to the specific sequences set forth in SEQ ID NO:15, 16, and/or 17. Claim 21 is drawn to a polypeptide comprising the specific polypeptide of SEQ ID NO:15, 16, or 17 and a tag. Support for Claim 21 can be found, for example, on specification page 16, lines 15-24.

Claims 22 and 24 further include an element drawn to equivalent amino acid substitutions in SEQ ID NO:'s 15, 16, or 17. Support for new Claim 22 can be found, for example, in specification page 17, line 18, to page 18, line 30.

Thus, Claims 21-27 of the invention are distinguished from SEQ ID NO:25 of Harpold et al. in that these claims are drawn to sequences that do not comprise specific sequences found in the C-terminal portion of SEQ ID NO: 25. For example, SEQ ID NO: 15 does not comprise amino acid 1019 to amino acid 1091, SEQ ID NO: 16 does not comprise amino acid 1037 to amino acid 1091, and SEQ ID NO: 17 does not comprise amino acid 1064 to amino acid 1091, of SEQ ID NO:25 of Harpold et al.

Furthermore, it is well settled that in order for a reference to anticipate a claim, the reference must teach each and every element of the claim. The Office Action indicates that Harpold et al. disclose TrpE fusion protein fragments which are designed for secretion and purification of the protein and cites column 12 of the reference in support.

However, Applicants submit that Harpold et al. do not teach the specific polypeptides set forth in SEQ ID NO:'s 15, 16, and 17 which are included as a clear limitation in Claims 21-27. Harpold et al. only generally describe TrpE fusion proteins comprising calcium channel subunit fragments, without disclosing any specific fragments.

Therefore, as each element of the claimed invention under consideration is not taught by Harpold et al., Applicants submit that the present claims under consideration are not anticipated

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by Harpold et al. Accordingly, Applicants respectfully request that this rejection of the claims be withdrawn and not extended to the new claims.

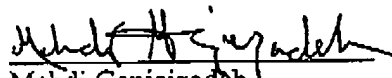
In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is respectfully solicited.

The Commissioner is hereby authorized to charge any fees under 37.C.F.R §§ 1.116 and 1.117 that may be required by this paper to Deposit Account No: 23-0455.

In the event the Examiner wishes to discuss any matter concerning this application, he is welcomed to communicate with the undersigned by telephone.

Respectfully submitted,

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Attachment - Version with markings to show changes made

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Version with markings to show changes made.

IN THE CLAIMS:

Claims 14 and 16-20 are cancelled without disclaimer or prejudice.

New Claims 21-27 are added.